

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

Crl.MC.No. 827 of 2007()

CC.771/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD
.....

PETITIONER: ACCUSED

RAMACHANDRAN, S/O.PARANGODATH
PADMAVATHY AMMA, PENAKAM DESOM, ANNAKARA VILLAGE,
MULLASSERY PANCHAYAT, CHAVAKKAD TALUK.

BY ADV. SRI.N.P.SAMUEL

RESPONDENTS: COMPLAINANT AND STATE

1. SRI.VINODAN, S/O.THINDAYATH PARAN,
MULLASSERY VILLAGE, CHAVAKKAD TALUK,
THRISSUR DIST.
2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.827 of 2007

Dated this the 22nd day of March 2007

O R D E R

The petitioner is the accused in a prosecution under Section 138 of the Negotiable Instruments Act. Prosecution was initiated as early as in 2003 and the case is seen numbered as C.C.No.771/2003. The trial is now complete. The matter had reached the stage of defence evidence. Defence evidence has been closed. The petitioner, after the defence evidence was closed, filed two applications, one under Section 311 Cr.P.C and the other under Section 315 Cr.P.C to reopen the defence evidence and to permit the petitioner to adduce further evidence. That application was dismissed by the learned Magistrate as per Annexure I order. In the order, the learned Magistrate has narrated the circumstances under which the petitions were dismissed by the learned Magistrate.

2. The petitioner claims to be aggrieved by the impugned order. The petitioner prays that powers under Section 482 Cr.P.C may be invoked and the petitioner may be granted a further opportunity to adduce defence evidence.

3. The learned Magistrate has expressed the opinion that the intention behind the petition is only to delay the disposal of the case.

4. I shall not embark on any detailed discussion which would encumber the records and prejudice the interests of the contestants.

5. Suffice it to say that I am called upon to exercise the jurisdiction under Section 482 Cr.P.C. That is the extraordinary inherent jurisdiction. It is not to be invoked as a matter of course. Has justice failed? Has there been failure or miscarriage of justice? These are the crucial questions that the court will consider. On going through the impugned order and having heard the learned counsel for the petitioner, I am of the opinion that there is no vice in the impugned order which would justify the invocation of the extraordinary inherent jurisdiction.

6. The law frowns on challenge against interim orders which would have the effect of protracting the trial. Section 397 (2) Cr.P.C conveys the anxiety of the law to prevent such protraction by challenge of interlocutory orders. Therefore, normally and ordinarily such orders will have to wait for

challenge until the final orders are passed. Of course, in an exceptional case where the conscience of the court is satisfied that failure of justice results from any interlocutory orders, the court is certainly entitled to invoke such powers even against interlocutory orders. But having heard the facts in this case, I am not persuaded to agree that such jurisdiction deserves to be invoked in this case.

7. In the result, this Criminal Miscellaneous Case is dismissed. I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not, in any way, fetter the rights of the petitioner to challenge the impugned (Annexure I) order, if necessary, along with the final order that will be passed by the learned Magistrate in the prosecution.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006